

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BESTWAY INFLATABLES &
MATERIAL CORP.,
Plaintiff,
v.
JOHN/JANE DOE,
Defendant.

Case No. 21-cv-05119-PJH

ORDER RE: EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

Re: Dkt. No. 6

On July 2, 2021, plaintiff Bestway Inflatables & Material Corp. (“Bestway”) filed an “ex parte emergency motion for temporary restraining order, preliminary injunction, and immediate discovery.” Dkt. 6. To date, plaintiff has not provided defendants with any notice of this lawsuit.

Federal Rule of Civil Procedure 65(b)(1) allows a court to “issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required."

Fed. R. Civ. Pro. 65(b)(1)(A)-(B).

Here, plaintiff fails to identify any effort to give notice to defendants of this motion or even this case. The court is not prepared to grant a temporary restraining order without notice. Further, the court is not inclined to freeze the assets of a person or entity that plaintiff cannot identify yet simply suspects is the defendant. The court concludes

1 that plaintiff has failed to proffer the required specific facts clearly showing any effort "to
2 give notice and the reasons why it should not be required" contemplated under Rule
3 65(b)(1)(B). Therefore, the court **DENIES** plaintiff's request to proceed ex parte.

4 The court **GRANTS** the request to permit plaintiff to immediately commence
5 discovery into the identity of the defendants.

6 The court **ORDERS** plaintiff to provide defendants notice of all orders,
7 motions, pleadings, declarations, and any other documents filed in this action by sending
8 a copy to customerservice660233@gmail.com, [bestway-](mailto:bestway-outlet.store@superprivacyservice.com)
9 outlet.store@superprivacyservice.com, apuninod1984@gmx.com , and
10 miaowensi054676@hotmail.com. Proof of service shall be filed no later than 12:00 pm
11 on Tuesday, July 6, 2021. The court will hold a hearing on the motion at 1:30 pm on
12 Thursday, July 8, via Zoom. Access information will be provided on the docket.

13 **IT IS SO ORDERED.**

14 Dated: July 2, 2021

15 /s/ Phyllis J. Hamilton

16 PHYLLIS J. HAMILTON
17 United States District Judge